



Room 3416, Federal Building  
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Little Rock, AR 72201

## FACT SHEET

### MITIGATION

**Notice:** This information is based on the Interim Final Rule for Highly Erodible Land and Wetland Conservation published in the Federal Register, Sept. 6, 1996. The information contained herein is subject to change in the Final Rule. The rule can be viewed on the Internet at <http://www.nrcs.usda.gov>.

#### Introduction

The 1996 Farm Bill made several changes to existing wetland conservation provisions that give landowners more flexibility in meeting requirements while protecting natural resources. The new law expands areas where mitigation can be used and provides more options for mitigation of lost wetland functions and values through restoration, enhancement, or creation. Mitigation is allowed on most wetland types of any size, provided equivalent functions and values are maintained.

#### Definitions

Mitigation is compensation through wetland restoration, enhancement, or creation for functions and values that are lost on a converted wetland.

Restoration of a wetland means the re-establishment of wetland conditions, including hydrologic conditions or native hydrophytic vegetation, to an area where a wetland had previously existed.

Enhancement of a wetland means the alteration of an existing wetland to increase its specific functions and values. Enhancement includes new capabilities, management options, structures, or other actions that influence one or more functions and values.

Creation of a wetland means the development of the hydrologic, geochemical, and biological components necessary to support and maintain a wetland where a wetland did not previously exist.

Any wetland established on a non-hydric soil will be considered a created wetland.

#### Exemption

A landowner will be exempt from wetland conservation provisions if conversion of the wetland functions and values is mitigated by the landowner through restoration of a converted wetland, enhancement of an existing wetland, or creation of equivalent wetland functions and values on a new site in the area.

#### Requirements

The restoration, enhancement, or creation is done according to a mitigation plan approved by the U.S. Department of Agriculture's Natural Resources Conservation Service.

- ♦ The mitigation provides the equivalent functions and values that will be lost as a result of the wetland conversion.
- ♦ The mitigation occurs before or at the same time as the wetland conversion or production of an agricultural commodity.
- ♦ The mitigation is not at the expense of the Federal Government (*except as part of a USDA-designated mitigation banking pilot project*).
- ♦ Wetlands mitigated are in the same general area of the local watershed as the converted wetlands, which includes regional mitigation banks.

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